

Regular Session, 2012

HOUSE BILL NO. 591

BY REPRESENTATIVE SIMON

HEALTH/HEAD INJURIES: Transitions certain functions of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board to DHH

1 AN ACT

2 To amend and reenact R.S. 36:259(T), 802(introductory paragraph), and 901(A), R.S.  
3 46:2633(D) and (E), 2634(B)(2), (3), (13), (D), and (H), and 2635(A), (B), and (C)  
4 and to enact R.S. 46:2633(F), relative to administration of the Traumatic Head and  
5 Spinal Cord Injury Trust Fund; to provide for certain duties of the Department of  
6 Health and Hospitals, office of aging and adult services relative to the Traumatic  
7 Head and Spinal Cord Injury Trust Fund; to provide for composition and certain  
8 duties of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board;  
9 to provide for the advisory capacity of the Traumatic Head and Spinal Cord Injury  
10 Trust Fund Advisory Board within the Department of Health and Hospitals; and to  
11 provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 36:259(T), 802(introductory paragraph), and 901(A) are hereby  
14 amended and reenacted to read as follows:

15 §259. Transfer of agencies and functions to Department of Health and Hospitals

16 \* \* \*

17 T. The Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board  
18 (R.S. 46:2631 through 2635) is hereby placed within the Department of Health and  
19 Hospitals and shall exercise and perform its powers, duties, functions, and

responsibilities in the manner provided for agencies transferred in accordance with the provisions of ~~R.S. 36:802~~ R.S. 36:901 et seq.

\* \* \*

§802. Transfer; retention of policymaking and rulemaking functions

The agencies transferred by the provisions of R.S. 36:209(Q), 239(E), 259(B), ~~259(T)~~, 309(B), 359(B), 409(C), 459(B), 509(B), 610(B), 629(I), and 769(C) shall continue to be composed and selected as provided by law, and each shall continue to exercise all of the powers, duties, functions, and responsibilities provided or authorized for each by the constitution or laws which are in the nature of policymaking, rulemaking, licensing, regulation, enforcement, or adjudication and also shall continue to exercise all advisory powers, duties, functions, and responsibilities provided by law. Such powers, duties, functions, and responsibilities shall be exercised independently of the secretary and any assistant secretary, except that:

\* \* \*

§901. Transfer; merger and consolidation of functions; advisory agency

A. The functions, powers, duties, responsibilities, programs, and operations of each of the agencies transferred by the provisions of R.S. 36:109(D), R.S. 36:209(C), R.S. 36:209(M)(2), R.S. 36:259(D), R.S. 36:259(T), R.S. 36:309(C), R.S. 36:359(C), R.S. 36:409(E), R.S. 36:509(E) and (N), R.S. 36:559(D), R.S. 36:629(Q), R.S. 36:651(G), and R.S. 36:744(D) on the date of each such transfer shall vest in and thereafter be the responsibility of the secretary of the department to which the transfer is made and shall be administered by the secretary in accordance with the powers vested in him by this Title and the applicable laws pertaining to each agency, except for those functions of each which are required to be performed and administered by the undersecretary of the department as heretofore provided for each by this Title. Each agency thus transferred shall continue in existence, the members thereof shall continue in office and hereafter shall be selected in the manner provided by law for each, and each agency hereafter shall serve solely in an advisory capacity

1 to the secretary with respect to policies concerning matters within the purview of  
2 each as originally created.

3 \* \* \*

4 Section 2. R.S. 46:2633(D) and (E), 2634(B)(2), (3), (13), (D), and (H), and  
5 2635(A), (B), and (C) are hereby amended and reenacted and R.S. 46:2633(F) is hereby  
6 enacted to read as follows:

7 §2633. Traumatic Head and Spinal Cord Injury Trust Fund

8 \* \* \*

9 D.(1) The monies in the fund shall be used solely for programs designed to  
10 provide services to Louisiana citizens disabled by traumatic head and spinal cord  
11 injuries, for the administrative costs of the programs, reimbursement of travel  
12 expenses of members of the Traumatic Head and Spinal Cord Injury Trust Fund  
13 Advisory Board which are incurred in the discharge of their duties, and as provided  
14 in Paragraph (2) of this Subsection. Disbursement of the amount appropriated to the  
15 department each year shall be made as determined by the ~~board~~ department. In  
16 determining disbursement of monies in the fund, the department shall take into  
17 account any recommendations of the board.

18 (2) The ~~board~~ department may authorize disbursement of an amount not to  
19 exceed fifty thousand dollars per year for the establishment and operation of an  
20 information resource center.

21 (3) Money in the fund may be used to match available federal funding in  
22 order to provide enhanced or expanded services to persons eligible for benefits  
23 pursuant to the provisions of this Chapter; provided, however, that sufficient money  
24 be retained in the fund to provide payment for services for persons who are not  
25 eligible for services through federally funded sources.

26 E. The ~~board~~ department shall:

27 (1) determine Determine the eligibility of programs to receive funding;

28 (2) Promulgate the rules and regulations necessary to implement the  
29 provisions of this Chapter.

(3) Establish priorities and criteria for disbursement of the fund and act to obtain maximum benefits available.

(4) Investigate the needs of the head-injured and spinal cord-injured, identify any gaps in services, and prepare and submit an annual report with recommendations to the legislature and the governor sixty days prior to each regular session of the legislature.

(5) Monitor, evaluate, and review the development and quality of services and programs funded through the fund.

(6) Arrange for full and accurate financial records to be maintained in compliance with law and shall make a full and complete report to the board quarterly. The department is specifically prohibited from publishing newsletters or other publications typically used in mass mailings.

~~F. and the administration~~ Administration of the fund shall be exercised by the Department of Health and Hospitals, office of aging and adult services, in accordance with the provisions of this Chapter.

§2634. Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board;  
creation; membership

\* \* \*

B. The Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board shall be composed of thirteen members as follows:

\* \* \*

(2) ~~The executive director of the Louisiana Head Injury Foundation or his designee~~ A representative of an organization recognized for its work in advocacy programs for persons with traumatic head injury appointed by the governor from a list of names submitted by such organization.

(3) ~~The executive director of the Louisiana Spinal Cord Injury Association~~  
~~or his designee~~ A representative of an organization recognized for its work in

1 advocacy programs for persons with spinal cord injury appointed by the governor  
2 from a list of names submitted by such organization.

3 \* \* \*

(13) ~~The president of the Louisiana Dental Association or his designee~~  
director of Louisiana Rehabilitation Services within the Louisiana Workforce  
Commission.

7 \* \* \*

8 D.(4) The board shall meet and organize immediately after appointment of  
9 its members and shall elect a chairman and a treasurer from its membership and  
10 other officers it might deem appropriate. The board shall adopt rules for the orderly  
11 transaction of business and shall keep a record of its resolutions, transactions,  
12 findings, and determinations. ~~A majority of the individuals appointed to the board~~  
13 ~~shall constitute a quorum.~~ Members shall serve without compensation but shall be  
14 reimbursed for travel expenses necessarily incurred in the discharge of their duties  
15 at the rate provided state employees.

~~(2) The treasurer shall arrange for full and accurate financial records to be maintained in compliance with law and shall make a full and complete report to the board annually. The board is specifically prohibited from publishing newsletters or other publications typically used in mass mailings.~~

20 \* \* \*

21 H. The board shall: serve in an advisory capacity to the office of aging and  
22 adult services of the department in all phases of administration by the department of  
23 the Traumatic Head and Spinal Cord Injury Trust Fund.

(1) ~~Promulgate the rules and regulations necessary to implement the~~  
provisions of this Chapter.

26 (2) Establish priorities and criteria for disbursement of the fund and act to  
27 obtain maximum benefits available.

(3) Investigate the needs of the head-injured and spinal cord-injured, identify any gaps in services, and prepare and submit an annual report with recommendations

1       ~~to the legislature and the governor sixty days prior to each regular session of the~~  
2       ~~legislature.~~

3               ~~(4) Monitor, evaluate, and review the development and quality of services~~  
4       ~~and programs funded through the fund.~~

5                                       \*       \*       \*

6       §2635. Expenditures

7               A. Except as provided in R.S. 46:2633(D)(2), money in the trust fund shall  
8       be distributed for the sole purpose of funding the cost of care or supportive services  
9       for traumatic head and spinal cord injury, including the administrative costs  
10      attributable to services provided by the trust fund program. The fund shall be  
11      considered as a source of last resort after private and governmental sources have  
12      been expended for Louisiana citizens.

13              B. Authorization of expenditures for spinal cord injury care and head injury  
14      care shall be made by the office of aging and adult services, within the Department  
15      of Health and Hospitals, according to criteria established by the ~~board~~ department  
16      through administrative rule.

17              C. Expenditures may include but are not limited to post-acute medical care  
18      rehabilitation, therapies, medication, attendant care, home or vehicle accessibility  
19      modifications, and equipment necessary for activities of daily living~~;~~ provided that  
20      such expenses are related to the spinal cord injury or traumatic head injury.

21                                       \*       \*       \*

22       Section 3. This Act shall become effective upon signature by the governor or, if not  
23      signed by the governor, upon expiration of the time for bills to become law without signature  
24      by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
25      vetoed by the governor and subsequently approved by the legislature, this Act shall become  
26      effective on the day following such approval.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Simon

HB No. 591

**Abstract:** Transitions certain functions of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board to the Dept. of Health and Hospitals (DHH).

Present law provides that the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board (board) shall have policy and rulemaking functions within DHH. Proposed law revises present law to provide that the board shall have solely an advisory function within DHH.

Present law creates a special fund in the state treasury known as the Traumatic Head and Spinal Cord Injury Trust Fund (fund), and provides for an account for the monies of such fund within the DHH office of aging and adult services.

Present law creates and provides for the composition and duties of the board within the DHH office of aging and adult services.

Present law provides that disbursement of monies from the fund shall be made as determined by the board. Proposed law revises present law to provide that such disbursement of monies be made as determined by DHH, taking into account any recommendations by the board.

Proposed law provides that money in the fund may be used to match available federal funding in order to provide enhanced or expanded services to eligible persons; provided, however, that sufficient money be retained in the fund to provide payment for services for persons who are not eligible for services through federally funded sources.

Proposed law removes authority for the following duties from the board and provides such authority to DHH:

- (1) Determining eligibility of programs to receive funding.
- (2) Promulgating rules and regulations necessary to implement the provisions of present law and proposed law.
- (3) Establishing priorities and criteria for disbursement of the fund and acting to obtain maximum benefits available.
- (4) Investigating the needs of the head-injured and spinal cord-injured, identifying any gaps in services, and preparing and submitting an annual report with recommendations to the legislature and the governor 60 days prior to each regular session of the legislature.
- (5) Monitoring, evaluating, and reviewing the development and quality of services and programs funded through the fund.
- (6) Arranging for full and accurate financial records to be maintained in compliance with law and making a full and complete report to the board quarterly.

Present law provides for composition of the 13-member board.

Proposed law removes the following members from the board:

- (1) The executive director of the La. Head Injury Foundation or his designee.
- (2) The executive director of the La. Spinal Cord Injury Association or his designee.
- (3) The president of the La. Dental Association or his designee.

Proposed law adds the following members to the board:

- (1) A representative of an organization recognized for its work in advocacy programs for persons with traumatic head injury appointed by the governor.
- (2) A representative of an organization recognized for its work in advocacy programs for persons with spinal cord injury appointed by the governor.
- (3) The director of La. Rehabilitation Services within the La. Workforce Commission.

Proposed law deletes requirement of present law that the board elect a treasurer from its membership.

Proposed law deletes present law providing that a majority of the individuals appointed to the board shall constitute a quorum.

Proposed law provides that the board shall serve in an advisory capacity to DHH in all phases of administration by the department of the fund.

Proposed law provides that administrative costs funded by the trust fund shall be those which are attributable to services provided by the trust fund program.

Present law provides that authorized expenditures for spinal cord injury care and head injury care may include but are not limited to post-acute medical care rehabilitation, therapies, medication, attendant care, and equipment necessary for activities of daily living. Proposed law retains present law and provides that authorized expenditures may also include home or vehicle accessibility modifications.

Proposed law provides that equipment necessary for activities of daily living must be related to the spinal cord injury or traumatic head injury in order to qualify as an authorized expenditure from the fund.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 36:259(T), 802 (intro. para.), and 901(A), R.S. 46:2633(D) and (E), 2634(B)(2), (3), (13), (D), and (H), and 2635(A), (B), and (C); Adds R.S. 46:2633(F))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Health and Welfare to the original bill.

1. Made changes in Title 36 (Organization of Executive Branch of State Government) as necessary to provide for the advisory function of the Traumatic Head and Spinal Cord Injury Trust Fund Advisory Board (board) within DHH.
2. Provided that DHH shall take into account any recommendations of the board in determining disbursement of monies in the Traumatic Head and Spinal Cord Injury Trust Fund (fund).



3. Specified that sufficient monies be retained in the fund to provide payment for services for persons who are not eligible for services through federally funded sources.
4. Changed schedule of DHH's required financial reporting to the board from annually to quarterly.
5. Deleted the president of the La. Physical Therapy Association or his designee as a board member and added as a board member a representative of an organization recognized for its work in advocacy programs for persons with traumatic head injury appointed by the governor.
6. Deleted the president of the La. Occupational Therapy Association or his designee as a board member and added as a board member a representative of an organization recognized for its work in advocacy programs for persons with spinal cord injury appointed by the governor.
7. Deleted present law providing that a majority of the individuals appointed to the board shall constitute a quorum.
8. Specified that administrative costs funded by the fund shall be those which are attributable to services provided by the trust fund program.